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SACRAMENTO COURTS
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21 SUPERIOR COURT OF THE STATE OF CALIFORNIA

22 IN AND FOR THE COUNTY OF SACRAMENTO

23 FAIR POLITICAL PRACTICES COMMISSION,
24 a state agency,

25 Plaintiff,

26 v.

27 SANTA ROSA INDIAN COMMUNITY OF THE
28 SANTA ROSA RANCHERIA dba PALACE
BINGO AND PALACE INDIAN GAMING
CENTER, and DOES I-XX,

Defendants.

Case No. 02AS04544

DECLARATION OF JAMES K. KNOX
IN SUPPORT OF OPPOSITION TO
MOTION TO QUASH

Date: February 20, 2003

Time: 9:00 a.m.

Dept: 54

Judge: Hon. Joe Gray

Action Filed July 31, 2002

No Trial Date Set

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1 I, JAMES K. KNOX, declare:

2 1. I am the Executive Director for California Common Cause (“Common Cause”).
3 I have been Common Cause’s Executive Director for over five and one-half years. Common
4 Cause is a non-partisan citizens’ organization founded in 1970. Common Cause has 200,000
5 members nationwide and 25,000 in California.

6 2. Common Cause’s goal is to ensure open, honest and effective government at the
7 federal, state and local levels. Through publication of studies on campaign finance, sustained
8 lobbying campaigns, and grassroots activities, Common Cause seeks to strengthen public
9 participation and public faith in our institutions of self-government; to ensure that government
10 and the political process serve the general interest, rather than special interests; to curb the
11 excessive influence of money on government decision-making and public elections; and to
12 promote fair and honest elections and high ethical standards for government officials.

13 3. In California, Common Cause sponsored Proposition 9, the successful citizens’
14 initiative enacting the state’s fundamental law governing campaign finance and lobbyist
15 activity disclosures - the Political Reform Act of 1974, which is set forth, as amended, in
16 California Government Code §§ 81000, *et seq.* (the “Act”). The Act requires public disclosure
17 of pre-election contributions to California political candidates and committees. *See* Cal. Gov’t
18 Code §§ 84200, *et seq.* For this disclosure, the Act implements a system of dual reporting -
19 both the donor and the recipient must file reports. The Act also requires public disclosure of
20 lobbying activities. *See* Cal. Gov’t Code § 86100. Under these provisions, a lobbyist’s
21 employer must file periodic reports identifying the bill or administrative action on which its
22 lobbyists has attempted to exert influence.

23 4. As detailed more fully below, I have extensive experience using disclosures
24 required by the Act to document who donates and receives money in California politics. In my
25 experience, the Act’s dual reporting requirements are essential to ensure that this system of
26 self-reporting effectively discloses to the voting public who gives to candidates for elective
27 office and how much those donors give. My study of those disclosures has revealed that in
28 recent years Native American tribes - including the Santa Rosa Indian Community of the Santa

1 Rosa Rancheria d.b.a Palace Bingo and Palace Indian Gaming (“Santa Rosa/Palace
2 Bingo”) - have joined the ranks of the most prolific donors to California political campaigns.
3 My comparison of donor and recipient reports, however, reveals that Santa Rosa/Palace Bingo,
4 and others with special interests in California’s gambling laws, repeatedly flouted the Act’s
5 disclosure requirements. As a result, I filed two verified complaints with California’s Fair
6 Political Practices Commission (the “FPPC”) itemizing widespread violations of the Act by
7 those with special interests in California’s gambling industry. In response, the FPPC
8 investigated these allegations and has filed numerous enforcement actions, including this action
9 against Santa Rosa/Palace Bingo.

10 QUALIFICATIONS

11 5. In 1977, I graduated from Stanford University with a Bachelor of Arts in
12 Communications. I received a Masters Degree in Public Policy from the Claremont Graduate
13 School in 1985.

14 6. I have spent the last fourteen years studying campaign finance in California
15 elections. Before joining Common Cause five years ago, I served for nine years as the Urban
16 Affairs Director for the Planning and Conservation League, where I represented the statewide
17 environmental group in, among others, the area of election and campaign reform. As Common
18 Cause’s Executive Director during the last five years, I have served as the organization’s
19 primary spokesperson in California; I have represented the organization before the California
20 Legislature and the FPPC; and I have directed Common Cause’s advocacy efforts at the state
21 and local level.

22 7. In the course of its regular effort to ensure open, honest and effective
23 government, Common Cause conducts research to publish a bi-annual report, entitled “Capitol
24 Investors.” The report identifies the top ten donors to California legislators and legislative
25 campaigns during a two-year “election cycle.” (Each election cycle covers the term for
26 members of the California Assembly.) The report also analyzes donor priorities and
27 contribution strategies. Common Cause has published “Capitol Investors” since the 1983-84

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1 election cycle. Common Cause's top ten lists for the last nine election cycles are attached
2 hereto as Exhibit A.

3 8. To collect data for the bi-annual publication of "Capitol Investors," a team of
4 individuals visits the California Secretary of State's offices. The team then reviews major
5 donor reports filed with the Secretary of State pursuant to the Act. The team collects data from
6 these reports regarding who made the contribution, what amount the contribution totaled, and
7 which state legislator or legislative campaign received the contribution. The team then enters
8 this data into a computer database. Common Cause then uses the data to create a list of top ten
9 donors and analyze donor priorities and contribution strategies.

10 9. In the course of its regular effort to ensue open, honest and effective government,
11 Common Cause also publishes reports on campaign contributions by particular special interest
12 groups. These reports identify how much a particular group has contributed, how much each
13 member of the industry contributed, who received the money, what pending legislation the
14 industry had an interest in, and how the legislation fared. The report entitled "Stacking the
15 Deck: Gambling Industry Emerges as Top Campaign Contributor in California," the results of
16 which are discussed more fully below, is one such report.

17 10. To collect the data for these industry-specific reports, a team of individuals visits
18 the California Secretary of State's offices. The team then reviews major donor reports filed
19 with the Secretary of State pursuant to the Act. It identifies reports filed by members of the
20 designated special interest group. It collects data from those select reports regarding who made
21 the contribution, what amount the contribution totaled, and which state legislator or legislative
22 campaign received the contribution. The team then enters the data into a database maintained
23 by Common Cause. As noted below, widespread underreporting within the gambling industry
24 of contributions from 1995 through 1998 prevented Common Cause from relying on major
25 donor reports and significantly increased the work required to compile the information
26 necessary for "Stacking the Deck."

27 11. During my five years at Common Cause, I have participated in seven major
28 reports on campaign finance in California, including the "Capitol Investors" reports for both the

1 1997-98 and the 1999-2000 election cycles. On those projects, I served as the primary
2 supervisor; I arranged for the data collection; I verified the accuracy of the data for the top ten
3 list by reviewing all reports filed by donors on the list, and I authored the reports. I have also
4 participated in four reports on contributions by particular industries. In addition to reports on
5 the tobacco, banking and energy industries, I participated in Common Cause's report on
6 political activity of the gambling industry, *i.e.*, "Stacking the Deck." On that project, I
7 supervised and directly assisted data collection; I verified the accuracy of the data by reviewing
8 data collected from recipient reports by leaders in the California legislature; and I edited the
9 final report. The other report on which I worked related to candidate fundraising in the 1996
10 general election.

11 12. I have also managed Common Cause's campaign efforts for five statewide ballot
12 measures: Proposition 25 (campaign finance reform), Proposition 34 (campaign finance
13 reform), Proposition 41 (voting machine improvement bond), Proposition 43 (election law
14 reform), and Proposition 52 (election day registration).

15 **THE CRITICAL IMPORTANCE OF DONOR REPORTS UNDER THE ACT'S DUAL**
16 **REPORTING SYSTEM**

17 13. Santa Rosa/Palace Bingo ignores California's interest in disclosure by Santa
18 Rosa/Palace Bingo of its donations to California political candidates and committees. Even if
19 those who received contributions from Santa Rosa/Palace Bingo made full disclosure to the
20 Secretary of State, the information that Santa Rosa/Palace Bingo failed to disclose as required
21 by the Act was, nevertheless, needed by the public. Indeed, the effectiveness of California's
22 system of campaign contribution disclosure depends on dual reporting - disclosure by the
23 "donor" and disclosure by the "recipient".

24 14. The Act's dual reporting requirement creates checks and balances in a system
25 built on self-reporting. A recipient is obliged to report with the knowledge that if he or she
26 does not, disclosure by the donor will enable the FPPC or members of the public to catch the
27 omission by auditing publicly available records. The FPPC now routinely matches what the
28 donors report giving to what the candidates report receiving. Take one side out of the equation

1 and an important enforcement tool is lost, along with some of the incentive for recipients to
2 comply - the only way to get caught is through a detailed audit of private records.

3 15. The Act's dual reporting requirement also facilitates studies by the media and
4 members of the general public into the overall contributions made by particular donors. Under
5 the dual reporting system, the public can easily compile this information from major donor
6 reports. Without donor reports, the public must instead search through all recipient reports to
7 obtain this information. As discussed below, the failure of Native American tribes to fully
8 report their contributions forced Common Cause to do just that during a study to document
9 contributions from all segments of the gambling industry. This additional burden transformed a
10 six-month project into a *two-year-long study* for Common Cause's three-member team.

11 16. If Native American tribes are immune from enforcement actions under the Act,
12 they could serve as conduits for undisclosed contributions from a variety of other sources. The
13 people of the State of California have demanded information about who is contributing to
14 candidates for statewide and legislative office, who is supporting statewide voter initiatives and
15 who is employing the state's lobbyists. If any group of donors are not subject to the Act's
16 requirements, special interests with an eye towards concealing their involvement in state
17 politics could use this group to frustrate that compelling public interest.

18 17. In sum, there are at least three dangers if Native American tribes can evade their
19 reporting obligations. Contribution recipients can evade disclosure of contributions from tribes
20 more easily. The general public and the media will face greater difficulty when attempting to
21 determine how much influence, through contributions, a major donor is exerting over
22 California's political process. Finally, the tribes could serve as conduits for undisclosed
23 contributions from special interests wanting to conceal their influence over California's
24 political process.

25 **THE RECENT METEORIC RISE IN CONTRIBUTIONS BY NATIVE**
26 **AMERICAN TRIBES**

27 18. Before the 1997-98 election cycle, Native American tribes were not among the
28 powerful interests attempting to purchase influence in California's political process. Indeed,

1 during the preceding fifteen years, not a single tribe contributed enough to make Common
2 Cause's list of the "Top Ten Contributors" to California's legislators and legislative campaigns.
3 See Exh. A (Top Ten Contributors 1983-2000). In my routine review of campaign contribution
4 recipient reports before the 1997-98 cycle, I have found contributions from Native American
5 tribes to have been few and insubstantial.

6 19. The 1997-98 election cycle was marked by the meteoric rise in the political
7 influence of Native American tribes in California politics. Santa Rosa/Place Bingo contributed
8 \$242,250 to candidates for state office, which, as is discussed below, it did not report. Three
9 other Native American tribes ranked among the top ten contributors to California's legislators
10 and legislative campaigns: the Agua Caliente Band of Cahuilla Indians spent \$1,214,094,
11 making it the third largest contributor in the state; the Morongo Band of Mission Indians ranked
12 second with \$1,416,713, and the San Manuel Band of Mission Indians ranked seventh with
13 \$1,028,064. In total, Santa Rosa/Palace Bingo and California's other tribes contributed more
14 than that contributed by three of the traditional powerhouses in state politics - the associations
15 representing California's teachers, doctors and trial lawyers. In only one election cycle, the
16 tribes went from being invisible to combining to be far and away the largest contributors to
17 California legislative campaigns.

18 20. The bulk of the contributions by Native American tribes during the 1997-98
19 election cycle went to support Proposition 5 on California's November 3, 1998 General
20 Election ballot. Proposition 5 was a tribal gaming initiative, which the Native American tribes
21 sponsored and Nevada gaming interests opposed. In this battle between special interests for the
22 general public's vote, these powerful, competing interests spent \$92 million collectively to
23 qualify, support and oppose the initiative. The level of spending on this proposition alone was
24 more than on any other proposition, in 1998, in California history or in the history of any other
25 state. In total, Native American tribes spent over \$60 million in support of the initiative, with
26 Santa Rosa/Palace Bingo contributing \$250,000.

27 21. The Secretary of State's report on campaign contributions relating to Proposition
28 5, among other initiatives on the November 1998 General Election ballot, is attached hereto as

1 Exhibit B. Santa Rosa/Palace Bingo's contribution is listed on page seventeen, under the name
2 "Santa Rosa Rancheria." The Secretary of State's report is consistent with data that Common
3 Cause collected from disclosures required by the Act. Before the November 1998 vote,
4 Common Cause collected data on contributions relating to all propositions on the ballot and
5 posted that information on the Internet in order to educate voters before they cast their ballots.

6 22. During one election cycle four years ago, Native American tribes rapidly emerged
7 as one of California's perennial special interest powerhouses. They have remained as one of
8 the most prolific political givers in California. Collectively, Native American tribes give
9 significantly more to California political campaigns than any of the traditional largest donors -
10 more than teachers, more than doctors, more than trial lawyers.

11 **WIDESPREAD VIOLATIONS OF THE ACT BY THE TRIBE AND OTHERS IN THE**
12 **GAMBLING INDUSTRY**

13 23. In 1997, my review of campaign contribution recipient reports for the 1997-98
14 election cycle uncovered an increasing number of contributions from gaming interests. In
15 response to the industry's increasing level of spending on California elections, I decided to
16 direct a Common Cause study to document just how significant a role gaming interests were
17 playing in California politics.

18 24. After a two-year investigation, Common Cause published the results of its study
19 in a report entitled "Stacking the Deck." The results showed that the industry exerted
20 significant influence in California's political process. From 1995 through 1998, the gambling
21 industry as a whole spent \$15,783,060 on campaign contributions to California's statewide and
22 legislative candidates. The total was greater than that contributed by the state's four largest
23 political donors - the California Teachers Association, the California Correctional Peace
24 Officers Association, the Consumer Attorneys of California, and the California Medical
25 Association - over the same time period. Native American tribes gave fifty-three percent of the
26 near \$16 million contributed by the gambling industry. As a whole, the industry gave markedly
27 more money in 1998 than in any other year covered by the study. The single largest factor for

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1 this increase was the escalation of contributions from Native American tribes and the
2 subsequent increase in contributions it promoted from their gaming rivals.

3 25. At the outset of its investigation, Common Cause estimated that the study would
4 take its staff six months to complete, under the hope that it could simply search through major
5 donor reports, identify reports filed by gaming interests, and collect information from those
6 reports. The study, however, took two years to complete, because of under-reporting by Santa
7 Rosa/Palace Bingo and other members of the gambling industry. The lack of compliance with
8 the Act's reporting requirements proved to be a tremendous obstacle in compiling data for the
9 study. Common Cause had to review the sets of recipient reports filed by over 500 candidates
10 for the legislature and statewide offices to obtain the results of its study.

11 26. Having had to look through all of the recipient reports after researching all
12 available donor reports, Common Cause decided to compare the relevant recipient and donor
13 reports. Common Cause found over 300 discrepancies between the gambling-industry donor
14 and recipient reports. The level of non-compliance with the Act was more widespread than
15 Common Cause had ever before documented. Of those in the gambling industry exerting
16 undisclosed influence, Santa Rosa/Palace Bingo was second only to Agua Caliente in total
17 undisclosed contributions to candidates for the state legislature.

18 27. On June 5, 2000, Common Cause filed a verified complaint with the FPPC. The
19 complaint documented the discrepancies Common Cause discovered. Among myriad
20 violations by others in the gambling industry, Santa Rosa/Palace Bingo failed to report
21 contributions totaling \$242,250 during 1998. The list Common Cause submitted to the FPPC
22 to itemize Santa Rosa/Palace Bingo's violations during 1998 is attached hereto as Exhibit C. In
23 its complaint, Common Cause respectfully requested the FPPC to investigate the discrepancies
24 and to take appropriate action. The FPPC's enforcement action pending before this court is but
25 one among many resulting from Common Cause's June 2000 administrative complaint. The
26 FPPC has brought enforcement actions and obtained fines with respect to the vast majority of
27 discrepancies involving donor reports from other interested members of the gambling industry.
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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on the 7th day of February 2003 at Sacramento, California.
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5 
6 JAMES K. KNOX
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